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STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS

Letter dated 5 December 1991 from the Chargé d'Affaires of the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations Office at Geneva addressed to the Under-Secretary-General for Human Rights

I have the honour to enclose herewith the Arabic and English text of a statement issued on 2 December 1991 by the People's Committee for Foreign Liaison and International Cooperation in response to a joint American and British statement issued on 27 November 1991 in relation to the regrettable incident that led to the crash of Pan American flight 103 over the village of Lockerbie.

It is to be noted that the joint decision to accuse two Libyans in the bombing of the Pan Am flight is not based on any evidence or proof and the precondemnation by way of the media and without just trials contradict what is laid down in all constitutions and human rights instruments, particularly the International Covenant on Civil and Political Rights.

I would be grateful if this letter could be distributed as an official document of the Commission on Human Rights under item 15 of the provisional agenda of its forty-eighth session.

(Signed): Ibrahim Abdul-Aziz OMAR
Chargé d'Affaires

1. The United States Administration and the British Government issued a statement on 27 November 1991 in relation to the regrettable incident that led to the crash of the Pan American flight 103 over the village of Lockerbie, Scotland ... a statement which confirms a premeditated intention to achieve political goals aimed against the popular political system of Libya. Using the media as a means of communication does not help to resolve problems between States ... it is a means of conduct that cannot be endorsed in international relations, because dialogue through diplomatic channels is the ideal and most successful method.

Since the joint United States-British statement has jumped to verdicts, informed of a premeditated intention of aggression, and imposed defined conditions, it is not based on international legitimacy or international law and contradicts with the United Nations Charter.

The decision to accuse two Libyans in the bombing of the Pan Am flight is not based on any evidence or proof and the precondemnation by way of the media and without just trials contradicts what is laid down in all constitutions and human rights charters, which is "the accused is innocent until proven guilty". In other words, the United States Administration and the British Government are trying to convince the world, by way of statements and the use of the media, that the accusation is a firm judicial verdict.

2. If the issue of the incident of Pan Am flight 103 relates to the implementation of law in accordance with judicial procedures, then Libya sees that the investigation into the matter follows the law of criminal procedures issued in 1953 by way of an investigating Libyan judge, since the matter concerns Libyans. Libya accepts that judges from Britain and America participate with the Libyan judge in the investigations to make sure that the procedures are done in an unbiased and good manner. International organizations, human rights societies and the families of the victims can send observers or lawyers to attend the investigations. Those States, or any other requesting party, can look into the process of investigation. The investigating judge will take into consideration obtaining the previous investigations carried out regarding the incident, including those in Scotland and the District of Columbia.

The specialized authorities in Libya will cooperate fully with the Scottish and American investigators to arrive at the truth.

In addition, Libya declares its acceptance of the formation of a neutral international investigation committee to carry out that investigation.

Taking any of the above-mentioned measures would prevent rushing into issuing verdicts against individuals, in violation of the law recognized by all of the constitutions in the world and by the human rights charters, that proclaim the accused is innocent until proven guilty.

If the matter, however, is related to political differences between Libya, on the one hand, and the United States and the United Kingdom on the other hand - which we believe the case to be - then the discussion of these differences should be conducted on the basis of the Charter of the United Nations which forbids aggression or the threat of aggression and

which calls for settling disputes by peaceful methods, including negotiations. If direct dialogue is unattainable because of the absence of diplomatic relations between Libya and the United States and the United Kingdom, by their unilateral severing of these relations, then the dialogue can be carried out by way of one or more parties within the context of the United Nations.

3. The non-acceptance of the two above-mentioned methods and resorting to the method of statements and the use of the media does not only affect public opinion in a wrong and untruthful way, but it has an effect on the investigators, the judges and the accused. It prevents the investigators from carrying out their tasks in unbiased and neutral circumstances, prevents the judges from conducting fair trials and deprives the accused of just and unbiased trials which contradicts basic human rights.

On the other hand, the method of issuing statements which reach the point of warning and imposing conditions clearly contradicts the United Nations Charter and is a method that cannot be accepted or endorsed in the relations between sovereign States.

4. Libya, by issuing this statement, sees that it has clarified the situation with regard to the regrettable incident involving Pan Am flight 103 and it adheres to implementing the law and its sovereignty without disregarding the rights of those upon which accusations have been made or the rights of the regrettable victims, their families and their relatives. It also adheres to the rules of recognized international relations without disregarding the sovereignty of any States.

2 December 1991